

Message Text

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47

ACTION EB-06

INFO OCT-01 ARA-06 EUR-08 EA-06 NEA-06 IO-04 ISO-00 AGR-05

CEA-01 CIAE-00 COME-00 DODE-00 FRB-01 H-01 INR-05

INT-05 L-02 LAB-01 NSAE-00 NSC-05 PA-01 RSC-01 AID-05

CIEP-01 SS-15 STR-01 TAR-01 TRSE-00 USIA-06 PRS-01

SP-02 FEAE-00 OMB-01 SWF-01 OIC-01 AF-04 /104 W

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R 231250Z OCT 74

FM USMISSION GENEVA

TO SECSTATE WASHDC 8840

INFO AMEMBASSY BELGRADE

AMEMBASSY BONN

AMEMBASSY CANBERRA

AMCONGEN HONG KONG

AMEMBASSY ISLAMAD

AMEMBASSY LONDON

AMEMBASSY MEXICO

AMEMBASSY NEW DELHI

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY SEOUL

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

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E.O. 111652: N/A

TAGS: ETRD, GATT

SUBJ: TEXTILES SURVEILLANCE BODY: KOREA/AUSTRALIA DISPUTE

REF: GENEVA 6411

1. AS REPORTED PARAS 3, 5 AND 6 REFTEL, TSB REACHED CONSENSUS

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ON INFORMAL RECOMMENDATION TO PARTIES TO RESUME NEGOTIATIONS

WHICH WAS CONVEYED KOREAN AND AUSTRALIAN DELS BY CHAIRMAN WURTH AFTERNOON OCTOBER 17 (KOREAN DEL, HAVING NECESSARY AUTHORITY, ACCEPTED IMMEDIATELY). TSB CHAIRMAN, HOWEVER, IN MAKING PRESENTATION TO AUSDEL APPARENTLY PRESSED AUSDEL TO AGREE TO RESUME NEGOTIATIONS GENEVA IMMEDIATELY. AUSDEL RESPONDED THAT THEY WOULD CONSIDER CHAIRMAN'S PROPOSAL AND REPORT BACK TO HIM LATER.

2. AS US REP, AT PRIVATE REQUEST BOTH PARTIES, HAD BEEN PRIVATELY PROVIDING "GOOD OFFICES" AND ACTING AS GO-BETWEEN THROUGHOUT HEARING, HE WAS APPROACHED BY AUSDEL EVENING OCTOBER 17 WITH ACCOUNT CHAIRMAN'S INFORMAL RECOMMENDATIONS TO THEM. SAID THEY HAD AUTHORITY AGREE RESUME NEGOTIATIONS BUT FACT THAT IF THEY REPORTED "TSB INSISTENCE ON RESUMPTION NEGOTIATIONS HERE AND NOW" CANBERRA WOULD BE CERTAIN "RESENT AND REJECT" DRUMHEAD COURT-MARTIAL NATURE OF CHAIRMAN'S RECOMMENDATIONS. INQUIRED AS TO WHETHER SUCH WAS INTENT OF TSB.

3. US REP REPLIED THAT, IN HIS UNDERSTANDING, SUCH HAD NOT BEEN INTENT TSB AND AGREED CONSULT CHAIRMAN PROMPTLY. MORNING OCTOBER 18 US REP MET WITH CHAIRMAN TO QUESTION CHAIRMAN'S ALLEGED INSISTENCE THAT PARTIES RESUME NEGOTIATIONS IMMEDIATELY IN GENEVA. CHAIRMAN ASSERTED THAT AUSDEL HAD APPARENTLY MISUNDERSTOOD AS ALL HE PRESSED FOR WAS "SOME CONTACT HERE BETWEEN REPS BOTH PARTIES TO SET RESUMPTION NEGOTIATIONS IN TRAIN". AFTER THIS MEETING US REP MET AGAIN WITH AUSDEL AND OBTAINED AGREEMENT THEY CONTACT KOREAN DEL (DR. KIM) TO INFORM HIM THEY AGREEABLE TO RESUME NEGOTIATIONS WITHIN TWO WEEKS. KOREAN DEL (DR. KIM) HAD WANTED TO RESUME HERE IN GENEVA AND WAS PROBABLY SOURCE INSPIRATION CHAIRMAN'S PRESENTATION TO AUSDEL. AFTER CONSULTING OTHER COLLEAGUES ON TSB, US REP INFORMED CHAIRMAN OF AUSDEL'S AGREEMENT AND SUGGESTED HE INFORM DR. KIM TO EXPECT APPROACH FROM AUSDEL WITH THAT PROPOSAL. CONTACT WAS MADE BETWEEN PARTIES AFTERNOON OCTOBER 18 AND AGREEMENT REACHED RESUME NEGOTIATIONS WITHIN TWO WEEKS AT PLACE AND TIME TO BE MUTUALLY AGREED. WITH DR. KIM DEPARTING FOR SEOUL OVER WEEKEND AND CHAIRMAN WURTH ALSO DEPARTING GENEVA FOR SEMINAR IN NIGERIA AFTERNOON OCTOBER 18, US REP LIMITED OFFICIAL USE

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CONCLUDED THAT PROBLEM WAS RESOLVED.

4. HOWEVE, AFTERNOON OCTOBER 21, US REP RECEIVED CALL FROM SALIB (SECRETARIAT) ASKEING REP'S VIEW ON SETTING UP SPECIAL MEETING TSB UPON CHAIRMAN'S RETURN LATER THIS WEEK "TO DRAFT FORMAL RECOMMENDATIONS". US REP QUESTIONED NEED FOR THIS SINCE TSB OBJECTIVE OF "CONCILIATION" HAD BEEN ACHIEVED. POINTED OUT THAT, IN HIS VIEW, IT WAS CLEAR INTENT OF TSB THAT

WORDING RECOMMENDATION CONVEYED BY CHAIRMAN TO PARTIES WAS BASED ON ASSUMPTION THAT RECOMMENDATION WAS "INFORMAL". PROBLEM HERE AROSE IN FIRST SENTENCE INFORMAL RECOMMENDATION WHEN TSB FOUND "THAT EVIDENCE AVAILABLE TO PARTIES AT TIME NEGOTIATIONS BROKEN OFF WAS INADQUATE TO SUPPORT CLAIM MARKET DISRUPTION". SALIB, PRESUMABLY ON WURTH'S INSTRUCTION, WISHED INCLUDE THIS LANGUAGE IN FORMAL RECOMMENDATION BY TSB TO PARTIES AND REPORT TO TEXTILES COMMITTEE.

5. LATER DEVELOPED THAT AUSDEL HAD MET WITH SALIB MORNING OCTOBER 21 AND HAD BEEN INFORMED THAT FORMAL RECOMMENDATION WOULD BE FORTHCOMING AND WOULD INCLUDE WORDING MENTIONED PARA 4 ABOVE. AUSDEL SUBSEQUENTLY INFORMED SALIB THAT THEIR ACCEPTANCE TSB RECOMMENDATION RESUME NEGOTIATIONS HAD BEEN BASED ON FACT THAT TSB PROPOSAL WAS INFORMAL AND ARGUED THAT FORMAL STATEMENT ON NON-EXISTENCE ADEQUATE EVIDENCE MARKET DISRUPTION WOULD IMPAIR THEIR POSITION IN RESUMPTION NEGOTIATIONS, PARTICULARLY AS REGARDED BASE LEVELS, ESPECIALLY IN VIEW FACT (ACCORDING AUSDEL) KOREAN EXPORTS ITEMS IN QUESTION HAD BEEN "POURING INTO AUSTRALIA" SINCE DATE IT BECAME KNOWN KOREA WAS DISPUTING RESTRAINT.

6. AFTERNOON OCTOBER 21, AUSDEL CALLED ON PATTERSON TO PROTEST FORMULATION FORMAL RECOMMENDATION AS PROPOSED BY SALIB. INFORMED PATTERSON THEY UNDERSTOOD FROM US REP THAT SUCH HAD NOT BEEN INTENT OF TSB. PATTERSON AGREED AUSDEL VIEW WAS PROPER ONE AND SAID WOULD SPEAK TO SALIB. US REP WAS UNAWARE AUSDEL CONTACT WITH PATTERSON UNTIL EVENING OCTOBER 21 WHEN AUSDEL ASKED FOR MEETING WITH US REP MORNING OCTOBER 22. BEFORE MEETING AUSDEL OTOVER 22 US REP CONSULTED WITH PATTERSON WHO SAID HE HAD DISCUSSED MATTER WITH LONG AND BOTH AGREED THAT TSB HAD LIMITED OFFICIAL USE

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ACHIEVED OBJECTIVE AND THAT IN THEIR VIEW THERE WAS NO NEED FOR FURTHER FORMAL RECOMMENDATIONS UNLESS THAT WAS WILL OF TSB. PATTERSON SAID HE HAD SUBSEQUENTLY MADE POINT "FORCEFULLY" WITH SALIB. AFTERNOON OCTOBER 22, AFTER SECRETARIAT CONSULTATION WITH TSB REPS, IT WAS AGREED THAT THERE WILL BE NO SPECIAL MEETING OF TSB AND NO SPECIAL FORMAL RECOMMENDATION. SUMMARY OF NINTH SESSION MEETING WILL CONTAIN REFERENCE TO TSB EXAMINATION OF ISSUE AND FINDING OF GROUNDS FOR RESUMPTION OF BILATERAL NEGOTIATIONS.

7. CENTRAL CONCLUSION EMERGING FROM NINTH SESSION IS THAT EXPORTING COUNTRIES RESTRAINING UNDER ARTICLE 3 MAY EXPECT ROUGH TREATMENT IN TSB WHEN EVIDENCE OF MARKET DISRUPTION (AS DEFINED IN ANNEX A) IS WEAK. TSB REPS FROM DEVELOPING EXPORTING COUNTRIES HAD DONE HOMEWORK WELL AND BOTH AUSTRALIAN AND CANADIAN

REPS WERE "PUT THROUGH THE MILL". CANADIAN SINGAPORE
ARTICLE 3 BILATERAL WAS FOUND TO LACK ADEQUATE EVIDENCE
MARKET DISRUPTION UNDER ARTICLE 3 AND CANADIANS ARE
EXPECTED TO RENOTIFY UNDER EITHER ARTICLE 2 OR 4. BOTH
AUSTRALIANS AND CANADIANS WERE OBVIOUSLY SHOCKED BY DEPTH
OF QUESTIONING AND AUSTRALIANS PARTICULARLY BY FACT TSB
REFUSED ACCEPT UNSUBSTANTIATED FINDINGS OF AUSTRALIS'S
TEXTILES AUTHORITY AT FACE VALUE. THIS DESPITE FACT
THAT AUSTRALIA'S EFFORT AT DOCUMENTATION WAS MOST COMPRE-
HENSIVE EVER SEEN BY US REP.

8. TSB HAS THUS CLEARED HURDLE OF FIRST CASE ALTHOUGH THERE
IS NO ASSURANCE THAT CONCILIATION ACHIEVED WILL LAST LONGER
THAN FIRST RENEGOTIATION SESSION BETWEEN KOREANS AND
AUSTRALIANS. US REP'S EXPECTATION IS THAT AUSTRALIA WILL
PAY SOMETHING (BUT NOT TOO MUCH) TO AVOID SECOND APPEARANCE
BEFORE TSB IN THIS CASE AND IN THE CASE OF THEIR BILATERALS WITH
HONG KONG AND INDIA WHICH WILL BE UP FOR TSB REVIEW AT NEXT
SESSION NOVEMBER 14. KOREANS APPEARED BY IMPRESSED BY
ADDITIONAL EVIDENCE SUPPLIED TSB BY AUSTRALIANS AFTER BREAKOFF
NEGOTIATIONS AND HOPEFULLY, SHOULD KEEP DEMANDS TO A REASONABLE
LEVEL WIHICH AUSTRALIANS CAN BEET. ABRAMS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TEXTILES, DISPUTE SETTLEMENT, TRADE COMPLAINTS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 OCT 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: garlanwa
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974GENEVA06500
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740302-0677
From: GENEVA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19741024/aaaaauck.tel
Line Count: 191
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: GENEVA 6411
Review Action: RELEASED, APPROVED
Review Authority: garlanwa
Review Comment: n/a
Review Content Flags:
Review Date: 16 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16 APR 2002 by ifshinsr>; APPROVED <19-Aug-2002 by garlanwa>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: TEXTILES SURVEILLANCE BODY: KOREA/AUSTRALIA DISPUTE
TAGS: ETRD, AS, KS, GATT
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005